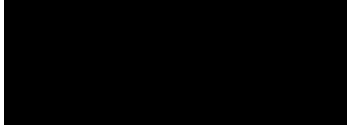


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-013609
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 12, 2014
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker/Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for October 1, 2014 ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FAP benefits for a FAP group consisting of her and her son while she was employed for more than 20 hours per week and a full-time college student.
2. On September 4, 2014, Claimant notified the Department that she had been laid off from her employment
3. Effective October 1, 2014, the Department increased Claimant's FAP benefits to \$194 for a FAP group consisting of Claimant's son, finding that Claimant was an ineligible student.

4. On October 10, 2014, Claimant filed a request for hearing disputing the Department's finding that she was an ineligible FAP group member.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant requested a hearing concerning her FAP benefits after she was advised that she was removed from her FAP group because, once she stopped working, she became an ineligible student for receipt of FAP benefits. Full-time college students between age 18 and 49 are not eligible for FAP benefits unless they meet one of the eligibility criteria outlined in policy, which include participating in a work study program, being employed for at least 20 hours weekly; having self-employment for at least 20 hours weekly and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours; being mentally or physically unfit to work; or caring for a minor child. BEM 254 (July 2014), pp. 3-4. In this case, Claimant admitted that she was a full-time college student and did not meet any of the exceptions to ineligible student status. Therefore, the Department acted in accordance with Department policy when it excluded her from her FAP group as an ineligible student. BEM 212 (July 2014), p. 9. This left Claimant's ■-year-old son as the sole member of the FAP group.

The Department did not provide a FAP net income budget showing the calculation of the FAP benefits Claimant's household received. Claimant, as an ineligible student, was not a FAP group member and her income would be excluded in the calculation of the remaining member's FAP eligibility. BEM 212, p. 10 and BEM 550 (February 2014), p. 4 (identifying an ineligible student as a non-group member and excluding the income of a non-group member from the calculation of remaining FAP members' FAP eligibility). However, Claimant confirmed that she received \$194 for October 2014. \$194 is the maximum monthly FAP allotment a FAP group with one member can receive. RFT 260 (October 2014). Therefore, the Department acted in accordance with Department policy when it concluded that, once Claimant was removed from the FAP group, the remaining FAP group member was eligible for \$194 in monthly FAP benefits.

At the hearing, there was a concern regarding the lack of written notice to Claimant advising her that she was being removed from her FAP group based on her ineligible student status. The Department must notify a client of a change in her FAP cases, except in limited circumstances not applicable in this case. BAM 220 (October 2014), pp. 3-4. Claimant acknowledged that her group's FAP benefits had increased from \$125 to \$194 after she was removed from the FAP group. Because the inactivation of an eligible FAP group member resulted in a FAP benefit increase, the Department was required to provide only adequate notice, meaning that the Department would not be required to delay making its action effective. BAM 220, pp. 2, 10-11.

In this case, Claimant denied receiving any notice of changes to her FAP case. Although the Department was given the opportunity to show that it notified Claimant of the change in her benefits and her removal from the group, the notice of case action it presented does neither. However, the purpose of the notice of case action is to specify the action being taken by the Department; the reason for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. BAM 220, p. 2. While there was no evidence that Claimant received adequate notice, because she was informed of the changes by her worker and requested a hearing concerning the changes, the Department's error in failing to provide adequate written notice was harmless in this case.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits for October 1, 2014 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/14/2014**

Date Mailed: **11/14/2014**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

CC:

